



Bill Summary

PROVISIONS OF WAXMAN "CLEAN CONTRACTING" AMENDMENT

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This Congress, the House and Senate have passed important contract reforms, but neither body has assembled them into a comprehensive package. The Waxman "Clean Contracting" amendment to the DOD authorization bill consolidates these provisions and other reforms into a far-reaching measure to protect taxpayers. The provisions in the amendment are a response to pervasive waste, fraud, and abuse uncovered during congressional, GAO, and Inspector General investigations.

The Clean Contracting amendment would (1) require agencies to enhance competition in contracting, (2) limit the use of abuse-prone contracts, (3) rebuild the federal acquisition workforce, (4) strengthen anti-fraud measures, and (5) increase transparency in federal contracting.

Enhanced Competition Provisions

Minimizing sole-source contracts. This section would curb spending on no-bid contracts by requiring large federal agencies to develop and implement a plan to promote competition and minimize the use of noncompetitive contracts. This provision is vital because noncompetitive contracts have soared from \$67 billion in 2000 to \$207 billion in 2006.

Limiting the length of non-competitive contracts. This section would limit the duration of no-bid contracts awarded in emergencies to nine months. During the response to Hurricane Katrina, no-bid contracts that were awarded without competition have lasted for years and cost taxpayers hundreds of millions of dollars.

Enhancing competition in multiple award contracts. This section would give all contractors under a multiple award contract a fair opportunity to bid for work under the contract, thereby increasing competition in these contracts.

Curbing Abuse-Prone Contracts.

Minimizing cost-plus contracts. This section would require agencies to minimize the use of cost-reimbursement-type contracts. Cost-plus contracts leave the government vulnerable to wasteful spending since they provide the contractor with little or no incentive to control costs. Spending on this type of contract rose from \$62 billion in 2000 to \$110 billion in 2005.

Limiting lead-system integrators. This section would prohibit contracts that rely on private contractors to serve as "lead-system integrators" who both manage and perform the contract. These types of contracts, which are exemplified by the Coast Guard's "Deepwater" contract, have led to billions in wasteful spending.

Prohibiting excessive pass-through charges. This section would require regulations to prevent contractors from billing taxpayers for excessive markups on work that is done by subcontractors. This provision would prevent the abuses that occurred after Hurricane Katrina, where taxpayers were charged \$2,480 for "blue roofs" that actually cost under \$300.

Minimizing abuse of commercial item authority. This section would require additional cost and pricing information for goods and services "of a type" found in the commercial market place. This would save taxpayer dollars by requiring contractors to justify prices for items that are not regularly sold to commercial customers.

Restricting interagency contracts. This section would require regulations to prevent abuse of interagency contracts. The provision is designed to prevent abuses like the one that occurred when the Department of Defense hired interrogators in Abu Ghraib under a contract to provide information technology run by the Department of the Interior.

Linking award fees to acquisition outcomes. This section would require award fees to be paid only when a contractor has at least a satisfactory level of performance. A series of audit reports have documented that contractors often receive large bonuses even when they do not meet performance objectives, such as the tens of millions of dollars in bonuses paid to General Dynamics under a Marine Corps contract for the expeditionary fighting vehicle which is now at least \$1 billion over budget and eight years behind schedule.

Acquisition Workforce Improvements

Acquisition workforce development fund. This section would mandate that agencies devote at least an additional 2% of their service contracting budgets to contract oversight, planning, and administration. The provision is needed because acquisition workforce has declined 25% since the mid-1990s while the volume of contracting has soared, leading to a greatly over-extended workforce.

Contingency contracting corps. This section would authorize the establishment of a contingency contracting corps to facilitate rapid contracting in the event of a national emergency.

Anti-Fraud Provisions

Whistleblower protection for contractor employees. This section would provide whistleblower protections for all federal contractor employees. It responds to testimony that contractors working for the Halliburton subsidiary KBR were fired after reporting egregious examples of wasteful spending.

Mandatory fraud reporting. This section would require both domestic and overseas contractors to report violations of federal criminal law and overcharging. Corruption has tainted a wide array of contract initiatives, including the reconstruction in Iraq, the response to Hurricane Katrina, and major Defense Department procurements.

Preventing contractor conflicts of interest. This section requires federal regulations to prevent organizational and personal conflicts of interest among contractor employees. Congressional investigations have documented that agencies have sometimes hired contractors with conflicts of interest to oversee the work of other contractors.

GAO access to contractor employees. This section would give GAO the authority to interview contractor employees. A series of GAO reports has found that agencies increasingly rely on contractors to fill roles previously held by government employees, including up to 45% of the program office staff at some DOD components.

Contract Transparency

Disclosure of CEO salaries. This section requires privately held contractors with large federal contracts, such as Blackwater, to disclose the compensation of their top executives.

Database for suspension and debarment. This section would create a database for companies that have been suspended or disbarred.

Improvements to the Federal Procurement Data System. This section enhances the transparency of multiple-award and interagency contracts by requiring additional reporting to the existing federal procurement database.